

## DIVISION 11. WATER WELLS\*

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**\*Editor's note:** Ord. No. 2005-19, § 1, adopted Dec. 13, 2005, amended Div. 11, in its entirety, to read as herein set out in §§ 42-541--42-569. Prior to inclusion of said ordinance, Div. 11 pertained to individual water supply systems. See also the Code Comparative Table.

**State law references:** Underground waters, NMSA 1978, § 72-12-1 et seq.; artesian wells, NMSA 1978, § 72-13-1 et seq.

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### Sec. 42-541. Purpose.

The board of county commissioners has determined that potential sources of contamination exist which may threaten the quality of ground water in Bernalillo County and consequently, the health, safety, commerce, public services, property, and the general welfare of the public. These potential sources of contamination are created by a cumulative effect of human influence and/or natural activities taking place within sufficient proximity to Bernalillo County's ground water supply as to pose a threat of contamination. The objective of this division is to provide minimum requirements for the construction, modification, and abandonment of private, multiple household, public, and monitoring wells, and thereby provide protection of the ground water within the unincorporated areas of Bernalillo County.

(Ord. No. 2005-19, § 1, 12-13-05)

### Sec. 42-542. Applicability.

This division shall apply to any person or entity desiring to engage in construction or use of one or more wells for ground water within the unincorporated areas of Bernalillo County, including the construction of wells for monitoring purposes. The county may order that wells be abandoned if they do not comply with any provision of this division. In those instances where this division does not address procedures and practices of well construction, modification, and abandonment, the Rules and Regulations of the OSE, the "Manual of Water Well Construction Practices," (NGWA (1998) or most current) and the "Standard for Water Wells," (AWWA (1998) or most current) shall be deferred to by the county.

(Ord. No. 2005-19, § 1, 12-13-05)

### Sec. 42-543. Definitions.

[The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:]

*Abandoned well* means a well which will no longer be used or which is in a state of disrepair such that it cannot be rehabilitated for its intended purpose or monitoring and observation.

*Abandonment* means proper well sealing to remove all physical and contaminant hazard and to best simulate the pre-existing hydrogeologic conditions.

*Annulus* means the space within the borehole not occupied by the well casing.

*Arroyo* means any ephemeral watercourse that only carries water during a storm event.

*Borehole* means any hole drilled into the ground for the purpose of extracting ground water.

*Coliform* means a group of related bacteria whose presence in water may indicate contamination by disease-causing microorganisms.

*Construction* means well construction, but is not limited to, the installation of new or replacement structures, equipment or pipe for the extraction of ground water.

*Contaminant* means any physical, chemical, biological, or radiological substance that may adversely affect water quality.

*Contamination* is the introduction into ground water of any contaminant that will affect water quality.

*Contractor* means a licensed, qualified person who drills, completes, or conducts work on water supply systems and/or wells.

*County* means the Bernalillo County Commission, Bernalillo County Manager, and/or representative thereof.

*Department director* means the director of the building, planning, zoning, and environmental health department.

*Disinfectant* means any substance including, but not limited to, chlorine, chlorine dioxide, chloramines, and ozone by which water is treated in any part of the treatment or distribution process, that is intended to kill or inactivate pathogenic microorganisms.

*Domestic purposes* means use of water for human consumption including, but not limited to, the processing and preparation of food for human consumption; for use in washing and rinsing those utensils and equipment used in the preparation, processing or consumption of food; for use in swimming pools; for bathing and other personal use, for the watering of livestock; or irrigation. This may include residential, commercial, or institutional uses.

*Driven well* means a well where the casing is pushed into the ground rather than set into a drilled hole.

*Dry hole* means a well that will not yield sufficient quantities of water for the intended use.

*EPA* means the United States Environmental Protection Agency.

*Final approval* means the approval granted when all inspections, including a final inspection, have been approved.

*Floodplain* means the floodplain defined by the Federal Emergency Management Agency Floodplain Maps.

*Ground water* means water in a saturated zone or stratum beneath the surface of land or water.

*Ground-water protection policy and action plan (GPPAP)* is the adopted plan by Bernalillo County and the City of Albuquerque defining the need for ground water protection initiatives.

*Individual well* means a well that supplies water and associated piping that serves a single lot or household.

*Legal existing well* means a well that was previously permitted and approved under the requirements at the time of construction or modification. Wells constructed or modified on or after December 1987 must have been permitted, inspected, and approved by the county to be considered a legal existing well. A well that was constructed or modified before December 1987 must hold an OSE permit that is dated from the time of construction or modification. Prebasin wells are considered legal existing wells with appropriate documentation.

*Maximum contaminant level* means the maximum permissible level of a contaminant in ground water as defined by NMED.

*Modification* means the repair or deepening of a well, the establishment of an additional connection to a structure or lot not previously connected to a multiple household well, the conversion of an individual well to a multiple household well, or the installation of some means

to treat contaminated water. This excludes the replacement of existing mechanical and electrical parts.

*Monitoring well* means a well that is used to obtain water quality samples or measure groundwater levels.

*Multiple household well* means a well and associated piping that serves more than one lot and/or household but does not qualify as a public water supply system.

*NMED* means the New Mexico Environment Department.

*OSE* means the New Mexico Office of the State Engineer or equivalent regulatory authority.

*Owner* means the person or entity responsible for the well. If there is no designated well owner, the property owner is responsible for the well.

*Permit application* means a form supplied by the county for the purpose of requesting a well permit and any supporting documents as required by the county.

*Person* means any individual, public or private corporation, association, trust, estate, political subdivision or agency, or any other legal entity or their legal representatives, agents, or assigned others.

*Pollution* means the presence in water of enough harmful or objectionable material to damage or degrade the water quality or pose a threat to public health.

*Prebasin well* means a well that was drilled prior to the OSE having jurisdiction over the ground water the well utilizes. Prebasin wells may be declared with the OSE.

*Public well* means a well for the provision to the public of piped water for human consumption if such system has at least 15 service connections or services an average of 25 individuals on a regular basis.

*Surface water* means water that is present, flowing, and located on the surface of the earth.

*Use* means the withdrawal of water from a well using manual or mechanical means.

*Water quality* means the physical, chemical, biological, and aesthetic properties of water.

*WQCC* means the Water Quality Control Commission.

*Well driller* means a licensed, qualified party who drills, completes, and/or conducts work on wells.

*Well* means an excavation or opening into the ground made by digging, boring, drilling, driving, or other methods, the purpose of which is to obtain ground water for use, and/or monitoring ground water levels or quality.

*Wellhead* means the area immediately surrounding the top of a well, or the top of a well casing.

*Wellhead protection* means the combination of land-use planning and well construction techniques and abandonment standards that protect and manage the ground water resources of Bernalillo County.

(Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-544. Use requirements for individual wells.

(a) No person or entity shall construct, install, modify, or use an individual well unless it is constructed, permitted, and maintained in accordance with the provisions of this division.

(b) No person shall use an individual well that does not meet the construction requirements of this division.

(c) No person shall use an individual well that produces water that exceeds the maximum contaminant levels allowed.

(d) No person shall use an individual well that does not meet the conditions placed by the OSE.

(e) Any new or modified well must be tested and meet water quality standards for parameters as determined by the county before final approval will be granted. Water sample collection, analysis, and analytical costs are the responsibility of the owner. The analysis should include, but is not limited to, the following: total coliform, total Kjeldahl nitrogen (TKN), ammonia, nitrate, nitrite, sodium, potassium, calcium, magnesium, chlorine, bicarbonate, total dissolved solids, pH, and sulfate. Additional water sampling parameters may be required based on site conditions.

(f) While individual well users are strongly encouraged to connect to municipal, authority, or private regulated systems when those systems become available, any user of an individual well that meets all requirements of this division is not required to connect to a public water supply system by this division. Well users in the valley areas are encouraged to continue to use their individual wells for irrigation purposes.

(Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-545. Site requirements for individual wells.

(a) The location of the well on the site shall not be located in Zones A, AE, AH, or AO as defined by Federal Emergency Management Agency Flood Hazard Maps. The well location shall be upgradient from known sources of pollution and contamination that may affect the water quality from the well. Final grading shall be done in a way that drains storm water away from the wellhead. The location of the well shall meet the setback requirements set forth in Table 1.

Table 1. Minimum Setback Distances for

Individual and Multiple Household Wells

TABLE INSET:

Minimum setback distance for an individual well	To
50 feet	Wells of different ownership
25 feet	Watertight sewer lines or drain lines
10 feet	Property lines
100 feet	Vitrified clay or concrete sewers
50 feet	Watertight septic tanks, on-site treatment units, or wastewater pump basins
100 feet	Individual wastewater system disposal fields
150 feet	Seepage pits
200 feet	Community wastewater system disposal fields
100 feet	Rivers, streams, irrigation canals and drains (lined or unlined), ponds, or other surface waters

25 feet	Arroyos and small man-made ditches for irrigation purposes that infrequently carry water
100 feet	Animal holding areas including corrals, stables, pens
100 feet	Any underground storage tank
500 feet	Any known ground water contaminant plume

(b) Lots that are zoned commercial or manufacturing, or lots with special use permits allowing those purposes, shall meet setback distances two times the distance required for individual wells as shown on Table 1.

(c) Wells cannot be located within the boundaries of an easement not designated for access to the well.

(d) The well shall be located so that it is accessible for maintenance.

(Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-546. Construction requirements for individual wells.

(a) Materials used in wells and boreholes shall be in good condition and conform to industry standards acceptable to the county including those standards developed by the American Water Works Association (AWWA), American Society for Testing Materials (ASTM) and National Groundwater Association (NGWA).

(b) All down-hole equipment shall be thoroughly cleaned prior to the start of drilling. No contaminated or untreated water shall be placed in a well or borehole during construction or abandonment.

(c) Final grading shall be done in a way that drains storm water away from the wellhead.

(d) A concrete pad, at least four inches thick and extending at least three feet from the well casing on all sides, shall be built around the well casing on the surface. The top of the concrete pad shall be graded to slope away from the well casing in all directions. The top of the well casing shall extend a minimum of 18 inches above the land surface.

(e) All wells and boreholes shall be constructed to prevent contaminants from entering the well or borehole from the ground surface or other aquifers. All wells shall be constructed to prevent contamination from the ground surface by sealing the annular space around the production casing or by enclosing the production casing with a sealed surface casing. Seals shall extend to a minimum of 20 feet below ground surface. Seals must extend to the base of the concrete pad or to the base of the pitless adapter, if used. All sealing operations required under this section shall be performed in a manner specified by the county. Casings shall be centered in the borehole so grout or other sealing materials are evenly spaced around the casing. The county may require additional protection based on site conditions.

(f) Wells which encounter undesirable water at any depth shall have the well annulus sealed to prevent the commingling of undesirable water with other water, or the loss of water into undesirable water quality zones.

(Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-547. Permitting of individual wells.

(a) Prior to the construction, installation, modification, or abandonment of an individual well, a permit must be obtained from the county. Failure to obtain a permit from the county prior to the

construction or installation of a new well, or modification of an existing well, as required herein, is a violation of this division.

(b) Any person seeking an individual well permit shall do so by filing a written permit application with the county, accompanied by the applicable fee as determined by the fee schedule as set by the board of county commissioners. The application, plans and specifications, and other documentation submitted for review shall be clear, legible, and of a permanent nature. The burden of proof that the well will meet all requirements of this division is the responsibility of the applicant. The county may require that wells found to be in violation of the requirements of this division be abandoned at the owner's expense. An individual well permit application shall not be accepted until all information outlined below is provided.

- (1) The applicant's name, mailing address, telephone number, and signature;
  - (2) The property owner's name, mailing address, and telephone number;
  - (3) Authorization for the installation of the well by the property owner, if different from the applicant;
  - (4) The date of the application;
  - (5) The site address, legal description, and the Uniform Property Code;
  - (6) A scaled drawing with a minimum scale of one inch is equal to 20 feet showing the following:
    - a. The proposed location of the well on the lot;
    - b. Drainage areas, Middle Rio Grande Conservancy District Ditches and Albuquerque Metropolitan Arroyo Flood Control Authority flood control areas within 100 feet of the well;
    - c. Proof of compliance with the minimum setbacks in Table 1. This may require a depiction of properties beyond the lot boundaries.
    - d. Other wells currently in use or abandoned;
    - e. Road easements, utility easements (including those used for shared wells), and road thoroughfares;
  - (7) Construction details of the installation including, but not limited to:
    - a. The proposed completion depth;
    - b. The proposed casing length above grade;
    - c. The proposed casing diameter;
    - d. The proposed casing type;
    - e. The proposed pump type; and
    - f. The proposed concrete pad dimensions;
  - (8) A copy of the OSE permit for one household;
  - (9) Such other well location and construction information as the county may require allowing for wellhead and ground water protection.
- (c) The application will not be accepted or reviewed until all necessary information is submitted. Failure to submit the information required in this section to the county will result in denial of the permit application. Within ten business days from the date that a completed application is submitted, the county shall issue a decision on a permit application. Decisions include:
- (1) *Issued*. If the county determines that the proposed design and installation, or the proposed modification of a well conforms with the pertinent provisions of this division, the county shall issue a permit.
  - (2) *Issued with conditions*. If the county determines that the proposed design or the proposed modification of a well conforms with the pertinent provisions of this division only after specific

conditions are followed, a permit may be issued. Final approval will not be granted unless all conditions are met.

(3) *Denied.* If, upon review, the proposed well design and installation, or the modification of an existing well does not meet the requirements of this division, the permit shall be denied. The county shall notify the applicant, in writing, the reasons for the denial. The permit application shall become void after 30 days from the date of the decision, unless the applicant has appealed.

(d) The county shall issue a decision within three business days if the applicant pays a permit rush fee as determined by the fee schedule as set by the board of county commissioners.

(e) The applicant may appeal the decision of the county within 30 days of the decision.

(f) The county shall maintain a file of all individual well permit applications and decisions.

(g) Permits shall become void if the well is not constructed, installed, modified, and final approval granted within one year from the date of issuance of the permit. Extensions, not to exceed one year, will be granted if the county receives a written extension request prior to the expiration date of the permit.

(h) Permits are not transferable from place to place.

(i) Fees must be paid in advance of acceptance of the permit application, and in accordance with the fee schedule as set by the board of county commissioners.

(Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-548. Non-conforming use of individual wells.

(a) Any existing individual well that was permitted, inspected, and approved by the county prior to the enactment date of this division shall meet all requirements of this division (including the application for a new permit) at the time the well is modified or abandoned.

(b) Any existing individual well that was constructed before December 1987 that has a permit issued by the OSE shall meet the requirements of this division (including an application for a new permit) at the time in which the well is modified or abandoned. A copy of this permit shall be provided to any county department or division upon request.

(c) Owners of a prebasin well are encouraged to declare the well with the OSE. In lieu of that declaration, the owner of a prebasin well shall file a signed document with the county clerk's office identifying the approximate date the well was drilled. A copy of this document shall be provided to any county department or division upon request. Declared prebasin wells or prebasin wells that have filed a document with the county clerk's office shall meet the requirements of this division (including an application for a new permit) at the time in which the well is modified or abandoned.

(d) Any well constructed on or after December 1987 that has not received final approval from the county shall meet all requirements of this division.

(Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-549. Conditional permit for individual wells.

(a) A conditional permit is required for an individual well if:

(1) An individual well requires treatment to improve the water quality from the well to meet NMED groundwater water standards;

(2) During the regular review of any county permit, it is found that an existing well is at risk from contamination by not meeting the setback requirements in Table 1, regardless of the requirements at the time of installation;

- (3) A water quality sample from the well shows that the water has become contaminated and the well is not to be abandoned.
- (b) Any person seeking a conditional permit shall do so by filing a written application with the county, accompanied by the applicable fee as determined by the fee schedule as set by the board of county commissioners. The conditional permit application shall include the following:
- (1) All permit information required for an individual well permit application;
  - (2) An explanation of the problem that requires treatment or a description of the setback distance that is not met.
  - (3) The corrective measures that will be used to fulfill the intent of this division.
    - a. Treatment to meet water quality standards should be a recognized method of treatment that has been tested and shown to be effective.
    - b. A sampling regimen must include the expected contaminants or representative indicators of contamination.
  - (4) A water sampling plan to ensure that the corrective measures are and remain effective.
  - (c) The county will within ten working days after the application is submitted issue a permit or deny the application.
  - (d) The county may issue a conditional permit and place such conditions it deems necessary to protect the health, safety and welfare of the residents of Bernalillo County.
  - (e) The applicant must comply with the conditions associated with the conditional permit. If it is found that at anytime the conditions are not met, the permit will be revoked and the well must be abandoned at the owner's expense.
  - (f) Denial of a conditional permit will require the abandonment of the well. The applicant may appeal the denial within 30 days of the date of the decision.
- (Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-550. Use requirements for multiple household wells.

- (a) No person or entity shall construct, install, modify, or use a multiple household well unless it is constructed, permitted, and maintained in accordance with the provisions of this division.
- (b) Multiple household wells can serve up to a maximum of five households or five lots.
- (c) No person shall use a well that does not meet the construction requirements of this division and/or its water exceeds the maximum contaminant levels allowed.
- (d) No person shall use a multiple household well that does not meet the conditions placed by the OSE.
- (e) A multiple household well may not have more than five connections.
- (f) Any new or modified well must be tested for water quality parameters as determined by the county before final approval will be granted. Water sample collection, analysis, and analytical costs are the responsibility of the owner. The analysis should include, but is not limited to, the following: total coliform, total Kjeldahl nitrogen (TKN), ammonia, nitrate, nitrite, sodium, potassium, calcium, magnesium, chlorine, bicarbonate, total dissolved solids, pH, and sulfate. Additional water sampling parameters may be required based on site conditions.
- (g) The owner of a multiple household well shall submit annual microbiological sampling results to the county. The county may require the abandonment of a well, at the owner's expense, that does not submit annual results. Water sample collection, analysis, and analytical costs are the responsibility of the owner.
- (h) While multiple household well users are strongly encouraged to connect to municipal, authority, or private regulated systems when those systems become available, any user of a

multiple household well that meets all requirements of this division is not required to connect to a public water supply system by this division. Well users in the valley areas are encouraged to continue to use their individual wells for irrigation purposes.

(Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-551. Site requirements for multiple household wells.

(a) The location of the well on the site shall not be located in Zones A, AE, AH, or AO as defined by Federal Emergency Management Agency Flood Hazard Maps. The well location shall be upgradient from known sources of pollution and contamination that may affect the water quality from the well. The location of multiple household wells shall meet the setback requirements set forth in Table 1.

(b) Lots that are zoned commercial or manufacturing, or lots with special use permits allowing those purposes, shall meet setback distances two times the distance required for multiple household wells as shown in Table 1.

(c) A multiple household well must be placed within an easement granting access to the well. All water lines associated with the multiple household well must be placed within an easement.

(d) Wells cannot be located within the boundaries of an easement not designated for access to the well.

(e) The well shall be located so that it is accessible for maintenance.

(Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-552. Construction requirements for multiple household wells.

(a) Materials used in wells and boreholes shall be in good condition and conform to industry standards acceptable to the county including those standards developed by the American Water Works Association (AWWA), American Society for Testing Materials (ASTM) and National Groundwater Association (NGWA).

(b) All down-hole equipment shall be thoroughly cleaned prior to the start of drilling. No contaminated or untreated water shall be placed in a well or borehole during construction or plugging.

(c) Final grading shall be done in a way that drains storm water away from the wellhead.

(d) A concrete pad, at least four inches thick and extending at least three feet from the well casing on all sides, shall be built around the casing on the surface. The top of the concrete pad shall be graded to drain away from the casing in all directions. The top of the well casing shall extend a minimum of 18 inches above the land surface.

(e) A totalizing meter is required on all multiple household wells.

(f) All wells and boreholes shall be constructed to prevent contaminants from entering the well or borehole from the ground surface or other aquifers. All wells shall be constructed to prevent contamination from the ground surface by sealing the annular space around the production casing or by enclosing the production casing with a sealed surface casing. Seals shall extend to a minimum of 20 feet below ground surface. Seals must extend to the base of the concrete pad or to the pitless adapter, if used. All sealing operations required under this section shall be performed in a manner specified by the county. Casings shall be centered in the borehole so grout or other sealing materials are evenly spaced around the casing. The county may require additional protection based on site conditions.

(g) Wells which encounter undesirable water at any depth shall have the well annulus sealed to prevent the commingling of undesirable water with other water, or the loss of water into undesirable water quality zones.

(Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-553. Permitting of multiple household wells.

(a) Prior to the construction installation, modification, or abandonment of a multiple household well, a permit must be obtained. Failure to obtain a permit from the county prior to the construction or installation of a new well, or modification of an existing well, as required herein, is a violation of this division.

(b) Any person seeking a permit shall do so by filing a written application with the county, accompanied by the applicable fee as determined by the fee schedule as set by the board of county commissioners. The application, plans and specifications, and other documentation submitted for review shall be clear, legible, and of a permanent nature. The burden of proof that the well will meet all requirements of this division is the responsibility of the applicant. The county may require that wells found to be in violation of the requirements of this division be abandoned at the owner's expense. An application shall not be deemed complete until all information outlined below is provided.

(1) The applicant's name, mailing address, telephone number, and signature;

(2) The property owner's name, mailing address, and telephone number;

(3) Authorization for the installation of the well by the property owner, if different from the applicant;

(4) The date of the application;

(5) The site address, legal description, and the Uniform Property Code;

(6) The addresses of all lots served by the well;

(7) The total number of persons that will be served by the well;

(8) A map that identifies each parcel that receives or will receive water from the well;

(9) A scaled drawing with a minimum scale of one inch is equal to 20 feet showing the following:

a. The proposed location of the well on the lot;

b. Drainage areas, Middle Rio Grande Conservancy District Ditches and Albuquerque Metropolitan Arroyo Flood Control Authority flood control areas;

c. Proof of compliance with the minimum setbacks in Table 1. This may require a depiction of properties beyond the lot boundaries.

d. Other wells currently in use or abandoned;

e. Road easements, utility easements (including those used for shared wells), and road thoroughfares;

(10) Construction details of the installation including, but not limited to:

a. The proposed completion depth;

b. The proposed casing length above grade;

c. The proposed casing diameter;

d. The proposed casing type;

e. The proposed pump type; and

f. The proposed concrete pad dimensions;

(11) A copy of the OSE permit for more than one household;

(12) A copy of a well share agreement that is signed by all property owners served by the well;

(13) Other well location and construction information as the county may require allowing for wellhead and ground water protection.

(c) The application will not be accepted or reviewed until all necessary information is submitted. Failure to submit the information required in this section to the county will result in a denial of the permit application. Within ten business days of the date that a completed application is submitted, the county shall issue a decision on a permit application. Decisions include:

(1) *Issued*. If the county determines that the proposed design and installation or the proposed modification of a well conforms with the pertinent provisions of this division, the county shall issue a permit.

(2) *Issued with conditions*. If the county determines that the proposed design or the proposed modification of a well conforms with the pertinent provisions of this division only after specific conditions are followed, a permit may be issued. Final approval will not be granted unless all conditions are met.

(3) *Denied*. If, upon review, the proposed well design and installation, or the modification of an existing well, does not meet the requirements of this division, the permit shall be denied. The county shall notify the applicant, in writing, the reasons for the denial and the procedure for appeal. The permit application shall become void after 30 days from the date of the decision, unless the applicant has appealed.

(d) The county shall issue a decision within three business days if the applicant pays a permit rush fee as determined by the fee schedule as set by the board of county commissioners.

(e) The applicant may appeal the decision of the county within 30 days of the decision.

(f) The county shall maintain a file of all multiple household well permit applications and decisions.

(g) Permits shall become void if the well is not constructed, installed, or modified, and final approval granted within one year from the date of issuance of the permit. Extensions, not to exceed one year beyond the original expiration date, will be granted if the county receives a written extension request prior to the expiration date of the permit.

(h) Permits are not transferable from place to place.

(i) Fees must be paid in advance of acceptance of the permit application, and in accordance with the fee schedule as set by the Bernalillo County Board of Commissioners.

(Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-554. Non-conforming use of multiple household wells.

(a) Any existing multiple household well that was permitted, inspected, and approved by the county prior to the enactment date of this division shall meet all requirements of this division (including the application for a new permit) at the time the well is modified, abandoned, or a new household or lot is connected to the well.

(b) Any existing multiple household well that was constructed before December 1987 that has a permit issued by the OSE for a multiple household use shall meet all requirements of this division (including the application for a new permit) at the time the well is modified, abandoned, or a new household or lot is connected to the well. A copy of this permit shall be provided to any county department or division upon request.

(c) Any multiple household well that was constructed on or after December 1987 that has not received final approval from the county shall meet all requirements of this division.

(d) Owners of a prebasin well are encouraged to declare the well with the OSE. In lieu of that declaration, the owner of a prebasin well shall file a signed document with the county clerk's office identifying the approximate date the well was drilled. A copy of this document shall be provided to any county department or division upon request. Declared prebasin wells or prebasin wells that have filed a document with the county clerk's office shall meet the requirements of this division (including an application for a new permit) at the time in which the well is modified or abandoned.

(e) Any multiple household well that is found to have more than 14 connections or is serving more than 25 persons will be classified as a public water supply and will be required to be permitted by NMED before any water can be used.

(Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-555. Conditional permit for multiple household wells.

(a) A conditional permit is required for an multiple household well if:

(1) A multiple household well requires treatment to improve the water quality from the well to meet NMED groundwater water standards;

(2) During the regular review of any county permit, it is found that the well is at risk from contamination by not meeting the setback requirements in Table 1, regardless of the requirements at the time of installation;

(3) A water quality sample from the well shows that the water has become contaminated and the well is not to be abandoned; or

(4) The well has more than five but less than 15 connections.

(b) Any person seeking a conditional permit shall do so by filing a written application with the county, accompanied by the applicable fee as determined by the fee schedule as set by the board of county commissioners. The conditional permit application shall include the following:

(1) All permit information required for a multiple household well permit.

(2) An explanation of the problem that requires treatment or a description of the setback distance that is not met.

(3) The corrective measures that will be used to fulfill the intent of this division.

a. Treatment to meet water quality standards should be a recognized method of treatment that has been tested and shown to be effective.

b. A sampling regimen must include the expected contaminants or representative indicators of contamination.

(4) A water sampling plan to ensure that the corrective measures are and remain effective.

(5) The exact number of connections to the well.

(6) The exact number of persons served by the well.

(7) A list of all properties served by the well.

(c) The county will within ten working days after the application is submitted issue a permit or deny the application.

(d) The applicant must comply with the conditions associated with the conditional permit. If it is found that at anytime the conditions are not met, the permit will be revoked and the well must be abandoned at the owner's expense.

(e) Denial of a conditional permit will require the abandonment of the well. The applicant may appeal the denial within 30 days of the date of the decision.

(Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-556. Public wells.

- (a) A public well must meet all use requirements as set by NMED.
  - (b) A public well must meet all site requirements as set by NMED.
  - (c) A public well must meet all construction requirements as set by NMED.
  - (d) Any public well that was drilled prior to the enactment date of this division shall meet all requirements of this division at the time the well is modified or abandoned. Maintenance of a public well is not considered a modification.
- (Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-557. Permitting of public wells.

A copy of the NMED permit for a public well shall be provided to the county prior to the start of construction.

(Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-558. Use requirements for monitoring wells.

- (a) No person or entity shall construct, install, modify, or use a monitoring well unless it is constructed, permitted, and maintained in accordance with the provisions of this division.
- (b) No person or entity shall use a monitoring well to supply water for domestic purposes.
- (c) Driven monitoring wells that do not exceed a depth of 30 feet below the land surface are exempt from the requirements of this division.

(Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-559. Construction requirements for monitoring wells.

- (a) The wellhead shall be protected from the introduction of contamination from the surface.
- (b) The well shall be constructed to maintain existing natural protection against the contamination of ground water.
- (c) The well shall meet all construction requirements placed by NMED or the OSE.

(Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-560. Permitting of monitoring wells.

- (a) All monitoring wells constructed after the effective date of this division shall have a permit on file from the county. When possible, a permit should be obtained prior to the construction of the well. In situations where the WQCC or NMED has determined that immediate action is required, a permit application may be submitted after the well is constructed.
- (b) Any person seeking a permit shall do so by filing a written application with the county. No fee shall be charged for a monitoring well permit. The application, plans and specifications, and other documentation submitted for review shall be clear, legible, and of a permanent nature. An application shall not be deemed complete until all information outlined below is provided.
  - (1) The applicant's name, mailing address, telephone number, and the signature of the applicant;
  - (2) The date of the application;
  - (3) The site address, legal description and Uniform Property Code;
  - (4) Provide a scaled drawing showing the location of the well and other identifiable features on the lot;
  - (5) Such other well location and construction information as the county may require.
- (c) The county shall maintain a file of all monitoring well applications.

(d) Permits are not transferable from place to place.  
(Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-561. Non-conforming use of monitoring wells.

Any monitoring well that was drilled prior to the enactment date of this division shall meet all requirements of this division (including the application for a new permit) at the time the well is modified or abandoned.

(Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-562. County permits and development review.

(a) *Bernalillo County permits.*

(1) The county shall not issue a business license, building permit, zoning permit, wastewater permit, or grant any other approval associated with any lot which necessitates the use of a well, unless the county has determined that the well meets the provisions of this division. The applicant shall provide documentation to the county, at the time of application, disclosing the water source that will serve the lot (public water supply, hauled water, individual well, or multiple household well).

(2) No certificate of occupancy shall be issued to a structure that will be served by a well that is regulated under this division or NMED unless that well has received final approval from the county or NMED.

(b) *Subdivisions.*

(1) All existing wells on properties proposed to be subdivided or replatted shall meet all requirements of this division before the subdivision or replat will be approved by the county. Wells that cannot meet the requirements of this division shall be abandoned.

(2) Existing wells on lots subject to court-ordered subdivisions shall meet all requirements of this division. The county may require that wells that cannot meet the requirements of this division be abandoned.

(Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-563. Variances.

(a) A person may apply for a variance from any one or more requirements of this division. Any person seeking a variance shall do so by filing a variance application form. Variance applications must be submitted with the appropriate fees as set by the board of county commissioners.

Variance applications must include:

- (1) The applicant's name, mailing address, telephone number, and signature of the applicant;
- (2) The property owner's name, mailing address, and telephone number;
- (3) Authorization for the installation of the well by the property owner, if different from the applicant;

(4) The date of the application;

(5) The site address, legal description, and the Uniform Property Code;

(6) A scaled drawing with a minimum scale of one inch is equal to 20 feet showing the following:

a. The location of the well on the lot;

b. Drainage areas, Middle Rio Grande Conservancy District Ditches and Albuquerque Metropolitan Arroyo Flood Control Authority flood control areas within 100 feet of the well;

- c. Distances to items with minimum setbacks established by this division. This may require a depiction of properties beyond the lot boundaries.
  - d. Other wells currently in use or abandoned;
  - e. Road easements, utility easements (including those used for shared wells), and road thoroughfares;
    - (7) The addresses of all lots served by the well;
    - (8) The total number of persons that will be served by the well;
    - (9) Such other well location and construction information as the county may require allowing for wellhead and ground water protection.
  - (b) The applicant has the burden of proof to establish by clear and convincing evidence that unique, peculiar, or unusual circumstances justify the request for a variance and:
    - (1) The proposed or existing well will not pose or cause a hazard to public health nor contaminate the ground water of Bernalillo County;
    - (2) Granting the variance will result in public health and environmental protection of equal to or greater than the minimum protection required by this division; and
    - (3) The water from the well (after treatment, if necessary) will meet all current drinking water standards.
  - (c) Within ten working days following receipt of the variance application, the county shall deny the variance, grant the variance or grant the variance subject to conditions. The action taken by the county shall be by written order, a copy of which shall be sent to the applicant. Orders shall:
    - (1) State the applicant's name, address, and telephone number;
    - (2) State the property owner's name address and telephone number;
    - (3) Describe the location of the property where the water supply system exists or where the proposed system is to be installed;
    - (4) Describe the system;
    - (5) If a variance is granted, state the period of time for which it was granted, and any conditions which may apply; and
    - (6) State the reasons for the county's decision.
  - (d) The county shall maintain a file of all variance application decisions.
- (Ord. No. 2005-19, § 1, 12-13-05)

#### Sec. 42-564. Appeals.

- (a) An applicant may appeal any decision on an individual or multiple household well within 30 days of that decision.
  - (b) The appeal should be made in writing to the department director and include the following information:
    - (1) The name and signature of the applicant;
    - (2) The location of the proposed well; and
    - (3) A justification for the appeal.
  - (c) The department director will issue a final decision within ten working days from the receipt of the appeal.
- (Ord. No. 2005-19, § 1, 12-13-05)

#### Sec. 42-565. Well abandonment.

- (a) Wells that are no longer capable of producing sufficient water for the intended use or wells that do not have sufficient water quality shall be abandoned unless the well is included in a water

level or water quality monitoring program. Wells that will be used in this type of program must comply with this division and obtain a monitoring well permit. The county may require well casing inspections of existing wells and abandonment of any well with a deteriorating casing that is not repaired within the time period ordered by the county. The county may order that wells be abandoned if they are in non-compliance with any provision of this division.

(b) Wells and boreholes shall be abandoned in accordance with the technical guidance provided by the Bernalillo County Office of Environmental Health.

(c) If an existing well or borehole is found to be a threat to public health, safety or water quality, the owner shall repair and/or abandon the well immediately in accordance with this division. The following will be considered a threat to public health, safety or water quality, but additional items may be added if the county believes that special hazards exist:

- (1) Annular space around well casing is open at or near the land surface;
- (2) Subsidence or caving around the well casing;
- (3) Significant deterioration of well casing;
- (4) Inadequate covering and drainage protection; and
- (5) Contaminated water.

(Ord. No. 2005-19, § 1, 12-13-05)

Sec. 42-566. Inspection of individual and multiple household wells.

(a) Any newly constructed, installed, modified, or abandoned well must receive a final inspection and be granted final approval by the county prior to use.

(b) Wells are subject to inspection at any time during or after construction by the county with reasonable notice to the owner. The county may issue a corrective action notice if any deficiencies are identified.

(c) A final inspection of the well or borehole is required by the county before the expiration date of the permit or within ten days after abandonment is completed.

(d) Final inspection includes, but is not limited to, an inspection of the following:

(1) Inspection of the required documentation

a. Submission of a copy of the drill log submitted to the OSE.

b. Documentation of the disinfection of the well and drilling equipment or documentation showing disinfection;

c. Documentation of well or borehole completion methods such as grouting and construction, or receipts showing materials used for grouting and construction;

d. A copy of a valid electrical permit from Bernalillo County for the well system, if required.

e. Submission of required analytical results.

(2) Inspection of the wellhead area;

(3) Inspection of the concrete pad and other wellhead protection measures;

(4) Verification that setback requirements are met;

(5) Compliance with any permit conditions.

(e) A minimum 24-hour advanced notice is required for the owner or installer to schedule an inspection. Saturdays, Sundays, and county recognized holidays shall not be included in the calculation of the 24-hour period.

(f) The county shall notify the owner of a well in writing if the well does not pass final inspection. The well may be reinspected after the appropriate fees have been paid as determined by the fee schedule as set by the board of county commissioners.

(g) After final inspection, the county may issue final approval and supply documentation of that approval in a manner specified by the county.

(h) The county shall maintain a file of all documents pertaining to well installation, modification, inspection, and approval.

(i) The county may record the location of the well electronically, such as by using global positioning system equipment, at final inspection. The county may maintain a record of these locations in an electronic format.

(Ord. No. 2005-19, § 1, 12-13-05)

#### Sec. 42-567. Inspection of public and monitoring wells.

(a) A final inspection of the well is required by the county as soon as possible after completion of the well.

(b) A minimum 24-hour advanced notice is required for the owner or installer to schedule an inspection. Saturdays, Sundays, and county recognized holidays shall not be included in the calculation of the 24-hour period.

(c) The county may record the location of the well electronically, such as by using global positioning system equipment, at final inspection. The county may maintain a record of these locations in an electronic format.

(d) The owner of a monitoring or public well shall inform the county when the well is abandoned and complete the abandonment as required by NMED or the OSE. No abandonment inspection is required.

(Ord. No. 2005-19, § 1, 12-13-05)

#### Sec. 42-568. Penalties/violations/enforcement.

(a) If the county establishes that a violation has occurred, the county shall serve notice to the owner of real property upon which the well is located. The county shall state the violation and order the property owner to make proper corrections within a specified time.

(b) The county may refer the violation to the OSE, NMED, or other regulatory agency as appropriate.

(c) Any well driller who has constructed or modified a well that is in violation of this division may have their Bernalillo County business license revoked until such time as the violation is resolved.

(d) Any person who violates any provision of this division shall be punished by a fine not exceeding \$300.00, imprisonment for a term not exceeding 90 days, or both. Each day the violation exists shall be considered a separate violation.

(Ord. No. 2005-19, § 1, 12-13-05)

#### Sec. 42-569. Conflicts of this division.

When a provision of this division is found to be in conflict with a provision of any zoning, building, plumbing, fire, safety, health ordinance or code effective in Bernalillo County; the Rules and Regulations of the OSE; the Statutes of the State of New Mexico, the "Manual of Water Well Construction Practices," (NGWA (1998) or most current); and/or the "Standard for Water Wells," (AWWA (1998) or most current), the provision of the more stringent requirement shall prevail.

(Ord. No. 2005-19, § 1, 12-13-05)

Secs. 42-570--42-590. Reserved.